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November 9, 2007

For Immediate Release:

Canal Winchester in Full Compliance with Wastewater Service Agreement with Lithopolis

CANAL WINCHESTER– As a member of the media, you may have received a statement from the Village of Lithopolis regarding the 2002 Wastewater Service Agreement between Lithopolis and the Village of Canal Winchester. Much of the information shared in this statement was either misleading or factually inaccurate. Therefore, Canal Winchester is providing what its staff believes to be the actual facts so that the media may report both sides of the story. As the nature of the Service Agreement is currently involved in litigation, please understand that Canal Winchester is only able to offer limited comments on this matter.

In the statement issued by Lithopolis earlier this month, Lithopolis officials claimed that they were “forced to resort to legal action compelling Canal Winchester to honor its obligations for wastewater service under our [Service Agreement] and the Ohio Environmental Protection Agency 208 Plan.” More accurately, Lithopolis chose to file civil litigation following Canal Winchester’s withdrawal of its letter of support for a permit to install (PTI) a new trunk line. This letter was withdrawn based on staff’s serious concerns about Lithopolis’ loss of a certified operator, their discharge of untreated sewage from a poorly maintained line, and a lift station capacity issue. This in no way affected Canal Winchester’s compliance with the Service Agreement.

Despite a productive meeting between the two Villages and the Ohio EPA on September 26, 2007, Lithopolis balked at entering into a new agreement to address concerns that would have resulted in Canal Winchester immediately reinstating its letter of support. Rather, Lithopolis has chosen to institute legal action with both the Ohio EPA and Canal Winchester to force a PTI without an agreement or a letter of support. Canal Winchester does not understand Lithopolis’ motives or tactics in this regard, and were under the assumption that the parties were negotiating in good faith.

There is no issue about Canal Winchester’s compliance with the Service Agreement. This is a simple issue about whether Lithopolis should be able to add onto a system if 1) they have already overcommitted their available capacity, 2) there are issues about their ability to professionally operate the sewer system, and 3) there are issues involving an unapproved connection and the capacity of a lift station. The information below is based on the chronological statement issued by Lithopolis.

At the request of Lithopolis, Canal Winchester and Lithopolis attempted to renegotiate their Service Agreement even though Canal Winchester was not under any obligation to extend or renegotiate the Service Agreement. Nonetheless, Canal Winchester sent a letter to Lithopolis on March 30, 2005 containing the background of the existing Service Agreement and a detailed proposal for consideration by Lithopolis. The proposal was fair and reasonable and supporting financial information and reasoning was provided. Although Lithopolis officials claimed in their statement that “For more than a year, Lithopolis has diligently and purposely sought to resolve this matter with Canal Winchester...,” it should be noted that Lithopolis took 194 days to respond to Canal Winchester regarding the March 2005 letter. A copy of the letter is attached for reference.

During this 194 day period, Lithopolis worked behind the scenes by corresponding and meeting with the Ohio EPA in an attempt to invalidate the Service Agreement- the same Service Agreement that they were attempting to renegotiate with Canal Winchester. In an April 13, 2005 letter (less than two weeks after receiving Canal Winchester’s letter) Lithopolis requested for the Ohio EPA: (1) Decertify Canal Winchester as the wastewater service provider for Lithopolis; (2) Designate Lithopolis as its own management agency; and (3) Certify Lithopolis as its own service provider. Lithopolis had also commissioned RD Zande to provide a Report of Wastewater Treatment Options in which they evaluated providing wastewater treatment by alternate means or providers other than Canal Winchester. This report was dated May 2004.

In April 2005, the Griffith property was annexed to Lithopolis from Canal Winchester. Lithopolis has claimed that Canal Winchester tried to block this annexation by making frivolous allegations to the Franklin County Commissioners who “paid no attention to Canal’s baseless claims and approved the annexation.” The pre-annexation agreement for the Griffith property committed Lithopolis to provide 140,000 gallons per day (gpd) of capacity to this property alone (well over 50% of Lithopolis’ 250,000 gpd water supply) and Canal Winchester shared that it did not believe Lithopolis had sufficient capacity to serve this property. The Commissioners did not dismiss this information as “baseless.” Rather, the prosecutor’s office ruled that, in an expedited annexation, the Commissioners must take the representations of Lithopolis that capacity is available at face value. A very similar situation ensued when the Roger property was annexed into Lithopolis.

Lithopolis has also claimed that Canal Winchester “refused to provide the Letter of Support claiming that Lithopolis did not have sufficient capacity to service the area under the current [Service] Agreement.” On the contrary, Canal Winchester was not notified by Lithopolis for approximately 200 days following their PTI submittal to Ohio EPA regarding their need to have a letter of support from them as their service provider as required by the Ohio EPA. When finally notified, Canal Winchester merely requested additional data regarding current and contracted wastewater flows in order to make a more informed decision. This was in no way a refusal of the Letter of Support.

Lithopolis’ claims that it is using less than 80,000 gpd of the 250,000 contracted gpd are misleading. While it is true that their average daily flow is around 80,000 gpd, Lithopolis entered into pre-annexation agreements which far exceeds their 250,000 gpd contracted

flows. Additionally, Ohio EPA was not a party to these discussions, and therefore, had no opportunity to agree to available capacity as Lithopolis claims.

On August 8, 2007, Canal Winchester sent a letter to Ohio EPA suspending the letter of support for the Bishop's Run project (located on the Griffith property). The issues leading to the suspension of the letter of support included, among several other items, an erroneous bill related to a new billing system that was quickly resolved upon discovery by Canal Winchester. There was in no way any blatant attempt to falsely accuse or delay Lithopolis as they claim. Additional issues leading to the suspension of the letter of support are completely relevant to the Bishop's Run project. In fact, Lithopolis entered into contracts with consultants to address the pertinent issues.

In an attempt to be congenial, Canal Winchester offered to record the agreed upon items from an arbitration meeting between Canal Winchester, Lithopolis and the Ohio EPA, compiling them into a contractual agreement. To the best recollection of Canal Winchester's staff, there were no additional provisions or obligations added to the contract outside of what was discussed at the meeting, contrary to what Lithopolis alleges.

Lithopolis further stated that "after two more weeks of costly delays orchestrated by Canal, Lithopolis unilaterally implemented the issues agreed to..." To anyone reviewing the chronology of events and response times throughout this entire process, it should be obvious that it is Lithopolis, not Canal Winchester that is "orchestrating delays in this process." Additionally, to work through these issues, Lithopolis signed a contract with Floyd Browne Associates, who are Lithopolis' current municipal engineers. This is specifically contrary to Ohio EPA's instructions to use an engineering firm with no conflict of interest.

According to Matt Peoples, Canal Winchester's Director of Public Works, "For \$2,500 Lithopolis could have partnered with Canal Winchester to resolve outstanding issues. Instead, Lithopolis has made the decision that a very expensive legal action that will also cause further delays will better suit its constituency." Canal Winchester would welcome Lithopolis to return to the discussion table, rather than to the courtroom, to resolve these matters.

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